

House Bill 26

By: Representative Knox of the 24<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 2 of Title 24 of the Official Code of Georgia Annotated, relating to relevancy, so as to provide for limitations on admission of extrinsic transactions into evidence; to provide for definitions; to provide for exceptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 2 of Title 24 of the Official Code of Georgia Annotated, relating to relevancy, is amended by adding a new Code Section 24-2-5 to read as follows:

"24-2-5.

(a) As used in this Code section, the term:

(1) 'Crime' means:

(A) An act committed in this state which constitutes a serious violent felony; or

(B) An act in violation of the laws of any other state or of the United States which if committed in this state would be a serious violent felony.

The act does not have to have resulted in a conviction for the offense.

(2) 'Extrinsic transaction' means an independent crime or separate act that occurs prior or subsequent to the crime or crimes alleged in the defendant's indictment.

(3) 'Serious violent felony' has the same meaning as provided in subsection (a) of Code Section 17-10-6.1.

(b) Where the defendant is indicted for a serious violent felony or more than one serious violent felony, evidence that the defendant has been accused or convicted of an extrinsic transaction shall not be admitted unless:

(1) Its probative value substantially outweighs the danger of unfair prejudice, confusion of the issues, or misleading the jury;

(2) It is part of a continuous crime spree or the pattern and characteristics of the crimes are so unusual and distinctive as to be like a signature;

(3) The state affirmatively shows that the extrinsic transaction is introduced not to show a propensity to commit crime but is intended to be used as evidence to prove a disputed issue as to identity, intent, motive, or common scheme, plan, or pattern;

(4) There is sufficient evidence beyond a reasonable doubt to establish that the defendant committed the extrinsic transaction; and

(5) There is a logical connection and similarity between the crime being tried and the extrinsic transaction so that the proof of the latter tends to prove the former.

(c) Evidence of an extrinsic transaction is not admissible under this Code section if the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence or finding of the rehabilitation of the person convicted.

(d) Extrinsic transaction evidence shall be admissible only as provided in this Code section and shall not be admissible in criminal cases involving offenses other than a serious violent felony.

(e)(1) Notice of the state's intention to present extrinsic transaction evidence shall be given and filed at least 30 days before trial unless the time is shortened or lengthened by the judge for good cause. The notice shall be in writing, served upon the defendant or upon defendant's counsel if the defendant is represented, and shall state the transaction, date, county, and the name of the victim or victims for each extrinsic transaction sought to be introduced. Copies of accusations or indictments, if any, and guilty pleas or verdicts, if any, shall be attached to the notice.

(2) The court shall hold a hearing at least ten days before trial and may receive evidence on any issue of fact necessary to determine the admissibility of the alleged extrinsic transaction. The burden of proving that extrinsic transaction evidence shall be admitted shall be upon the prosecution. The state may present during the trial evidence of only those extrinsic transactions specifically approved by the court.

(f) To the extent of any conflict between the provisions of this Code section and the provisions of Code Section 24-2-2, 24-9-20, 24-9-84, or 24-9-84.1, the provisions of this Code section shall control; provided, however, that if the defendant places the defendant's character in issue, extrinsic transaction evidence shall be admissible according to the rules of evidence."

## SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.